Shahril bin Yahya v Public Prosecutor

HIGH COURT (IPOH) — CRIMINAL APPEAL NO 42–1 OF 2009
CHOONG SIEW KHIM JC
30 JUNE 2010

Criminal Procedure — Charge — Duplicity of — Whether three statements referred in charge correlative and corresponded with same matter — Whether statements implicated accused

The plaintiff, a class F contractor who was awarded a project by 'Jabatan Kerja Raya' ('JKR'), was the main witness in a criminal case in which Remely bin Hussin ('Remely') was charged under s 165 of the Penal Code. Remely, a technician in JKR supervised the project. Remely was alleged to have asked the plaintiff commission in relation to the project. The plaintiff gave three statements to 'Badan Pencegah Rasuah' ('BPR') which incriminated Remely based on his demand of commission in relation to the project. However, during the plaintiff's testimony against Remely, the plaintiff was stopped when his testimony contradicted with the relevant statements made by the plaintiff. The plaintiff testified that Remely had asked for a loan of RM10,000 instead of commission, which contradicted the three statements. It was submitted that the plaintiff's testimony was material to the case against Remely. A report was lodged against the plaintiff for the purpose of investigation under s 19(2) of the Anti-Corruption Act 1997 ('ACA') and the plaintiff was subsequently charged according to the similar act. The plaintiff argued that there were three distinct offences arising from the three statements which resulted in duplicity and ambiguity. The plaintiff argued further that there was no inconsistency as the words 'komisyen' and loan are bonded by a common denomination in s 2 of the ACA.

Held, dismissing the appeal:

(1) There was no duplicity or three permutations of the inconsistent statements made by the plaintiff. The three statements referred to in the charge against the plaintiff are correlative and corresponded with the same matter namely 'komisyen'. The three statements not only complemented each other but further reinforced the fact in issue that it was a commission and nothing else that was asked for and given to Remely. The three statements taken together referred to an apparent corrupt payment that implicated Remely (see para 12).

(2) The three statements were read over to the plaintiff by the recording officers and he signed at the end of each statement to signify that they

were true. Going back on the previous statements at the trial proper would debunk and derail in blink of an eye the prosecution of the offence against the plaintiff, hence aborting the course of justice, whatever the eventual outcome. This would lead to futile prosecution that is curtailed by renegade witnesses and much public fund is wasted consequently. In such circumstances, public interest is adversely affected when the great effort and time in investigating and bringing offenders to book comes to nought (see paras 29 & 33).

[Bahasa Malaysia summary

Plaintif, kontraktor kelas F yang telah diawardkan suatu projek oleh Jabatan Kerja Raya ('JKR') adalah saksi utama di dalam satu kes jenayah di mana Remely bin Hussin ('Remely') telah dituduh di bawah s 165 Kanun Keseksaan. Remely, seorang juruteknik di JKR menyelia projek tersebut. Remely didakwa telah meminta daripada plaintif, komisen berkaitan dengan projek tersebut. Plaintif memberikan tiga pernyataan kepada Badan Pencegah Rasuah ('BPR') yang membabitkan Remely berdasarkan kepada tuntutannya untuk komisen berkaitan projek tersebut. Walau bagaimanapun, semasa plaintif memberikan keterangan terhadap Remely, plaintif telah dihentikan apabila keterangannya bertentangan dengan kenyataan yang relevan yang dibuat oleh plaintif. Plaintif memberikan keterangan bahawa Remely telah meminta pinjaman sejumlah RM10,000 dan bukannya komisen, yang bertentangan dengan ketiga-tiga kenyataan tersebut. Ia dihujahkan bahawa keterangan plaintif adalah material kepada kes terhadap Remely. Suatu laporan telah dibuat terhadap plaintif bagi tujuan penyiasatan di bawah s 19(2) Akta Pencegahan Rasuah 1997 ('APR') dan plaintif kemudiannya telah dituduh bagi tindakan yang serupa. Plaintif menghujahkan bahawa terdapat tiga kesalahan yang berbeza timbul daripada ketiga-tiga kenyataan yang menyebabkan kependuaan dan kesamaran. Plaintif selanjutnya menghujahkan bahawa tidak wujud keadaan tidak konsisten kerana perkataan-perkataan 'komisyen' dan pinjaman adalah terikat oleh nama yang sama dalam s 2 APR.

Diputuskan, menolak rayuan:

(1) Tidak ada kependuaan atau tiga pilih atur kenyataan-kenyataan yang tidak konsisten dibuat oleh plaintif. Ketiga-tiga kenyataan yang dirujuk di dalam pertuduhan terhadap plaintif adalah berhubung kait dan membawa maksud perkara yang sama iaitu komisen. Ketiga-tiga kenyataan bukan sahaja melengkapkan satu sama lain tetapi selanjutnya mengukuhkan fakta dalam isu bahawa ia adalah komisen dan bukan yang lain yang diminta dan diberikan kepada Remely. Ketiga-tiga kenyataan dibaca bersama merujuk kepada bayaran korup yang jelas yang membabitkan Remely (lihat perenggan 12).

(2) Ketiga-tiga kenyataan telah dibaca semula kepada plaintif oleh pegawai pencatat dan dia telah menandatangani di akhir setiap kenyataan untuk

menunjukkan bahawa ia adalah benar. Berbalik semula kepada kenyataan sebelumnya dalam perbicaraan akan memaparkan kepalsuan dan kepesongan dalam sekelip mata kesalahan pihak pendakwaan terhadap plaintif, maka menggugurkan perjalanan keadilan dan apa-apa keputusan akhir. Ini akan membawa kepada pendakwaan yang sia-sia yang dihadkan oleh saksi-saksi yang berpaling tadah dan dengan itu banyak wang orang awam dibazirkan. Dalam hal keadaan tersebut, kepentingan awam dijejaskan dengan buruk apabila usaha dan masa yang banyak dalam menyiasat dan membawa pesalah ke muka pengadilan tidak berbaloi (lihat perenggan 29 & 33).]

Notes

For cases on duplicity of charges, see 5(1) *Mallal's Digest* (4th Ed, 2007 Reissue) paras 1116–1141.

Cases referred to

Mahendran a/l Manikam v PP [1997] 4 MLJ 273; [1997] 1 CLJ Supp 473, HC (refd)
Pendakwa Raya v Remely bin Hussin Criminal Case No 61–4 of 2003 (refd)
PP v Heah Lian Khin [2000] 3 SLR 609, HC (refd)
Yusof bin Omar v PP [2001] 2 MLJ 209; [2001] 3 CLJ 122, CA (refd)

Legislation referred to

Anti-Corruption Act 1997 ss 2, 19(2)
Criminal Procedure Code s 173(m)(i)
Penal Code s 165

Mohamad Asri bin Othman (Asri, Chek Meng & Co) for the appellant.
Saiful Hazmi bin Mohd Saad (Deputy Public Prosecutor from MACC) for the respondent.

Choong Siew Khim JC:

[1] The appellant ('the accused') was charged at the sessions court as per this amended charge:

Bahawa kamu pada 9 Julai 2003, di Mahkamah Sesyen 2, Ipoh, dalam Daerah Kinta, dalam Negeri Perak, semasa perbicaraan kes jenayah 61–4–2003, Pendakwa Raya lawan Remely bin Hussin telah memberi keterangan seperti berikut:

Dia ada minta *pinjaman* dengan saya sebanyak RM10,000 saya tidak ada apa-apa masalah.

Dia minta *pinjaman* daripada saya untuk apa saya tidak pasti, saya pun beri kepada beliau.

Yang mana kamu mempunyai obligasi di sisi undang-undang untuk menyatakan yang benar dan didapati penyataan-penyataan tersebut tidak selaras dengan penyataan-penyataan yang telah kamu buat sebelumnya kepada pegawai-pegawai Badan Pencegah Rasuah, Perak semasa pegawai-pegawai itu menjalankan kuasa yang diberikan oleh Akta Pencegahan Rasuah 1997 (Akta 575) seperti berikut:

(i) Penolong Penguasa Maznah bte Che Muda di Pejabat Badan Pencegah Rasuah Perak, Ipoh pada 15 Mei 2002.

> Bagi Projek Rangsangan Baru ini, Remely telah meminta daripada saya supaya adjust agar beliau dapat 10% daripada harga kontrak. Beliau sendiri yang sebut katanya RM10 ribu. Daripada pemahaman saya RM10 ribu yang diminta adalah untuk *komisyen*.

(ii) Penyiasat Khairolaffendi bin Isnin di Pejabat Badan Pencegah Rasuah Perak, Ipoh pada 1 Ogos 2002:

> Untuk Projek Rangsangan Baru ini, sekali lagi saya ingin menegaskan dan mengesahkan bahawa memang Remely ada meminta saya adjust 10% daripada harga kontrak dan memang beliau ada minta wang berjumlah RM10,000 iaitu bayaran komisyen kepada beliau selepas adjust 10%.

(iii) Penolong Penguasa Hamidah bt Aziz di Pejabat Badan Pencegah Rasuah Perak, Ipoh pada 23 September 2002:

> Saya dengan sesungguh hati tanpa paksaan dari mana-mana pihak masih ingin mengekalkan bahawa wang RM 10,000 yang telah saya berikan pada 4 Februari 2002 adalah merupakan wang *komisyen* yang telah diminta oleh Remely dan bukannya wang *pinjaman* seperti yang terkandung di dalam surat yang dirujuk tadi.

Oleh itu kamu telah melakukan kesalahan di bawah S. 19(2) Akta Pencegahan Rasuah 1997 yang boleh dihukum di bawah seksyen yang sama.

[2] He was found guilty, convicted and sentenced to six months' imprisonment and fined RM20,000 in default six months' imprisonment. After hearing submissions on his appeal against this decision, I dismissed the appeal against which he is now appealing to the Court of Appeal.

FACTUAL BACKGROUND

[3] The accused was a class F contractor. He was awarded a project by Jabatan Kerja Raya ('JKR') known as 'Projek Rangsangan Baru' to carry out works for certain schools in Perak. He was the main witness in Criminal Case No 61–4 of 2003 viz *Pendakwa Raya v Remely bin Hussin* tried at Ipoh Sessions Court No 2. Remely bin Hussin ('Remely') was charged under s 165 of the Penal Code.

Remely was a technician from JKR who supervised the said project. He was alleged to have asked the accused to pay him commission in relation to this project.

[4] The accused gave three statements to BPR officers (witnesses 'SP1', 'SP3' and 'SP4') which incriminated Remely in relation with his demand for commission. The three statements are P1 (recorded by 'SP1', Maznah bt Che Muda, on 15 May 2002), P3 (taken down by SP3, Khairolaffendi bin Isnin, on 1 August 2002) and P5 (recorded by SP4, Hamidah bt Aziz, on 23 September 2002) with the pertinent portions marked as P1A, P3A and P5C which are specifically quoted in the amended charge against the accused.

[5] At the trial against Remely, the accused was called as the first witness on 9 July 2003. SP2 (Roshan a/l Karthikayan) was the deputy public prosecutor who prosecuted that case before sessions court judge, Puan Maznah bt Abdul Aziz ('SP5'). The testimony of the accused until where it stopped when he was said to have given evidence inconsistent with P1A, P3A and P5C is P2, the typed version of the notes taken down by SP5. Contrary to what he stated in his recorded statements as commission, the accused however testified during examination-in-chief before SP5 that Remely asked for a loan of RM10,000 ('pinjaman') from him. P2A is the relevant part:

> Dia ada minta pinjaman dengan saya sebanyak RM10,000 saya tidak ada apa-apa masalah. Dia ada minta pinjaman daripada saya untuk apa saya tidak pasti, saya pun beri kepada beliau.

[6] This answer was in response to SP2's question to the accused regarding the sum of RM10,000 that was paid to Remely. According to SP2, he found this reply to be a contradiction that was material to the case and which did not appear in his statements P1, P3, P4 and P5. In that event, he asked for an adjournment of the case in order to refer the matter to his superiors. SP3, who was also the investigating officer in *Pendakwa Raya v Remely bin Hussin*, recorded two statements from the accused (P3 and P4). He testified that before the case against Remely begun, the accused's memory was refreshed with reference to the statements that he gave. He was subsequently told by SP2 that the accused's testimony in court was inconsistent with what he stated in his statements. On the instruction of SP2, SP3 lodged report No 82/2003 for the purpose of investigation under s 19(2) of the Anti-Corruption Act 1997 that led to the charge against the accused.

[7] The following were the issues ventilated by learned counsel for the accused.

DUPLICITY IN CHARGE

[8] It was submitted by counsel En Mohamad Asri bin Othman that there were three distinct offences arising from the three statements P1, P3 and P5 resulting in duplicity and ambiguity.

[9] He apparently took issue that the trial judge did not adequately address this issue in that she dismissed the issue without giving any reason. I gathered from her grounds of decision that she put it this way:

> Mengenai isu *duplicity*, mahkamah berpendapat tidak wujud tiga *distinct offences* disebabkan tiga pernyataan yang tidak selari.
>
> Pertuduhan terhadap OKT adalah keterangan yang dibuat oleh OKT semasa perbicaraan kes *Public Prosecutor v Remely* yang menyatakan wang RM10,000 adalah wang pinjaman dan ianya tidak selaras dengan pernyataan-pernyataan yang diakui oleh pegawai BPR yang mengatakan wang tersebut ialah wang komisyen. Kesalahan ini juga timbul semasa OKT memberi keterangan di mahkamah pada 9 Julai 2003.
>
> Ketiga-tiga pernyataan menunjukkan terdapat satu percanggahan iaitu percanggahan terhadap keterangan yang diberikan di mahkamah. (pp 15 and 16 of appeal record)

[10] Her reasoning, I found, was not totally focused and coherent although I agreed with her that there was really no duplicity of the kind meant by learned counsel. This was my take on the issue. P1 being the first statement kick-started the criminal process against Remely based on the accused's disclosure that an adjustment equivalent to 10% of the project price which he understood to be a commission was asked of him by Remely and it was duly given (see P1A in particular). According to SP3, he recorded P3 and P4 (P3 being of more relevance to the charge) as a follow-up on P1 to get additional information and to confirm that RM10,000 was indeed credited into the account of Remely (see p 49 of appeal record).

[11] Meanwhile SP4 related that P5 was recorded to get the accused's explanation pertaining to letter P7 which was received from Remely wherein was stated that the said RM10,000 was given by the accused to Remely as a loan 'untuk tujuan proses bagi menjalankan perniagaan isteri beliau'. Before P5 was recorded, P1, P3 and P4 were read over to the accused by SP4. The accused stood by the truth of these statements. He also clarified that P7 was not prepared by him, he merely signed it out of sympathy for and to help Remely.

[12] It was hence clear that there was no 'duplicity' or three permutations of inconsistent statements as alleged by learned counsel because in my view, the three statements referred to in the charge are correlative and corresponded with the same matter namely 'komisyen'. The three statements not only complemented each other but further reinforced the fact in issue that it was a commission and nothing else that was asked for and given to Remely. What was the necessity then to charge the accused on three counts of inconsistency when the three statements taken together referred to an apparent corrupt payment that implicated Remely.

[13] The circumstances in the instant case are totally different from that of the case relied on by learned counsel, *Mahendran a/l Manikam v Public Prosecutor* [1997] 4 MLJ 273; [1997] 1 CLJ Supp 473. In that case, KC Vohrah J held that the prosecution's case related to two acts of unlawful sexual intercourse on two different dates and at two different places where clearly two different distinct offences and two separate charges ought to have been framed against the appellant. I would add that in the present case, the three statements were used to describe the inconsistency that formed the crux of the offence under s 19(2) of the Anti-Corruption Act ie loan ('pinjaman') which was a subsequent retraction from commission ('komisyen') used in the three statements, two words which are as different as day from night with both bearing different meanings. Commission read in the context of the three statements on the whole meant a kickback whereas a loan is simply a sum of money lent. These two words, by definition, lead to the next issue.

COMMISSION AND LOAN DEFINED AS GRATIFICATION

[14] I must admit that learned counsel for the accused used a rather ingenious approach when he argued that there was no inconsistency as the two words 'commission' and 'loan' are bonded by a common denominator in the definition of 'gratification' in s 2 of the Anti-Corruption Act. Besides commission (para (d) of the definition), a gratification also means a loan (paragraph (a) of the definition of 'gratification'), thus it was contended that there was no inconsistency especially when the charge against Remely and the outcome of that case were not made known in the present case.

[15] Learned deputy public prosecutor disagreed by countering that s 19(2) pertains to a person making a subsequent statement which is inconsistent with a statement that he previously made to an officer of the anti-corruption agency. The case against the accused was based on his testimony in court which was found to be inconsistent with the statements he made to SP1, SP3 and SP4.

[16] It was my view that the prosecution rightly relied on P2A in comparison with P1, P3 and P5 as well as on SP2's evidence to prove the charge under

s 19(2) against the accused. On this basis, I agreed with the learned deputy, En Saiful Hazmi, that it was not important that the charge-sheet and report in Remely's case were not tendered in the case against the accused. By way of analogy, he referred to *Yusof bin Omar v Public Prosecutor* [2001] 2 MLJ 209; [2001] 3 CLJ 122 at p 138.

[17] I would hasten to add that the decision of Yong Pung How CJ in *Public Prosecutor v Heah Lian Khin* [2000] 3 SLR 609, a case cited by counsel for the accused, was a most helpful guide in comprehending the meaning of a previous inconsistent or contradictory statement. It was from this case that learned counsel took a leaf when he raised the earlier issue of 'varying permutations of inconsistent statements'. The Chief Justice held that:

> (1) ... In interpreting the phrase 'previous inconsistent or contradictory statement', a flexible as opposed to a rigid, semantic interpretation was preferred. In practice, there could be a wide variety of statements and an absolute oppositeness was not essential. The court had to compare the oral evidence with the previous statement and to assess the overall impression which had been created as a whole. The critical question was whether the two utterances, even if one was the utterance that 'I can't remember', were in effect inconsistent and appeared to have been produced by incompatible beliefs.
>
> (2) Due to the varying permutations of inconsistent statements, it would be unduly restrictive and unrealistic to confine the operation of the statutory provisions to a situation where the witness gave two affirmative versions of the facts. A less semantic approach, which called for a comparison of the oral testimony with the previous statement as a whole to determine whether they were compatible, congruent or consonant in substance, spirit or form, was preferred.

[18] Yong Pung How CJ concluded that the phrase 'previous inconsistent or contradictory statement' must necessarily encompass a witness who deliberately and falsely claimed that he was unable to recall the facts. This resulted from a flexible interpretation based on the compatibility approach.

[19] Our instant case, being more straightforward, however is one of 'two affirmative versions' of a material fact or fact in issue. The word 'komisyen' was obviously a material fact in the charge against Remely. When this word was omitted by the accused at the trial against Remely to be substituted with the word 'pinjaman', it painted a distinctly different picture of events which occurred that led to the prosecution of Remely in the first case. The fact in issue to be proved became divergently different. An overall reading and understanding of the three statements (P1, P3 and P5) apart from the vital portions (P1A, P3A and P5C) further underscored the irreconcilable incompatibility between 'komisyen' and 'pinjaman' which irrefutably bear different meanings and connotations as stated earlier that had morphed the case against Remely.

[20] If the accused had stuck to asserting 'komisyen' at the trial against Remely, the case would have carried on without any interruption. As it were, SP2 could not further continue with his examination of the accused when he found that his testimony and utterance of the word 'pinjaman' was materially inconsistent with and contradicted what was stated in his statements made to the BPR officers.

[21] The evidence adduced by the prosecution was therefore sufficient to find a prima facie case against the accused although it appeared from the way the grounds of decision were written without ample reasons given for her findings made it seem that the sessions court judge had not really thoroughly appraised the evidence before her. It could just be her style of writing but nevertheless this did not affect my opinion that any other conclusion at the end of the prosecution case would be against the weight of evidence adduced before the trial court.

DEFENCE CASE

[22] It was further submitted that the sessions court judge totally erred in her failure to comply with the legal requirement under s 173(m)(i) of the Criminal Procedure Code when she came to this conclusion:

> Oleh kerana mahkamah berpendapat OKT telah gagal untuk menimbulkan keraguan dalam kes ini, mahkamah telah menyabitkan OKT atas pertuduhan ini.
>
> (p 16 of appeal record)

[23] Section 173(m)(i) of the Criminal Procedure Code provides:

> At the conclusion of the trial, the court shall consider all the evidence adduced before it and shall decide whether the prosecution has proved its case beyond reasonable doubt.

[24] I had analysed the defence testimony and it was my view that this was an unsustainable argument because on this analysis, I could only conclude that the defence had indeed failed to cast any reasonable doubt on the prosecution case resulting in the incontrovertible conclusion that the prosecution had proved its case beyond reasonable doubt.

[25] The accused was the only defence witness. In short, he explained that he was not allowed by the recording officers to tell the truth when they rejected his usage of the word 'pinjaman'. On this score, he decided to do so in court. From p 73 of the appeal record, the accused is quoted as saying:

A Rujuk ekshibit P1 dan P1(a), saya telah sebut banyak kali bahawa saya bagi pinjam tetapi Puan Maznah masih memujuk saya, tidak mahu menerima perkataaan pinjam, maka saya sebut adjust.

Pemahaman saya adjust ialah pinjam.

B Saya beritahu pinjam tetapi catitan Puan Maznah sendiri adalah komisyen.

[26] He said at p 74:

C Rujuk ekshibit P3 dan P3(a): Saya ada memberi keterangan kepada Encik Khairolaffendi. Dia bertanya tentang duit RM10,000.00. Saya bagitahu itu adalah pinjaman dia tidak setuju dan masih mengikut keterangan yang diberi pada Puan Maznah.

… Saya ada bagitahu Khairolaffendi, kalau saya bercakap benar dan tidak boleh diterima, maka saya ambil keputusan untuk bercakap benar di dalam Mahkamah.

D

[27] He further revealed:

E Puan Maznah beritahu sekiranya saya berpihak kepada BPR, maka saya dikecualikan terhadap semua tindakan Mahkamah. Sekiranya saya tidak berpihak kepada BPR, maka saya disalahkan dan boleh dipanjarakan selama 15 tahun. (p 75 of appeal record)

[28] With regards to P5, he explained in this manner:

F

Saya tidak tenteram dengan soalan-soalan BPR, beberapa kali diberitahu perkataan pinjaman tetapi tidak mahu diterima dan untuk mengelakkan ditahan lebih lama, maka saya mengikut sahaja apa-apa cadangan Puan Hamidah. (p 75 of appeal record)

G

[29] It was clear that the accused imputed inducement or coercion by the BPR officers only at the defence stage. This line of defence was not put to SP1 and SP3 in cross-examination for them to agree or refute. The above was also tantamount to an afterthought and denial by the accused as correctly found by H the trial judge. The accused's account flew against the evidence in cross of SP1 who was emphatic that the accused did not state that 'adjust' meant a loan and when asked about the word 'adjust', the accused said that 10% of the contract price had to be paid to Remely. Likewise, SP3 affirmed in cross-examination that the accused did not say that he gave a loan of RM10,000 to Remely. The I accused had the option to lodge a complaint or report that he was forced to use the word 'komisyen' against his free will. He failed to do so by his own admission. It was in any event in his evidence that the said three statements were read over to him by the recording officers and he signed at the end of each to signify that they were true.

[30] Ultimately, he said these self-incriminatory words: **A**

> Rujuk ekshibit P2. Ya, soalan-soalan diberikan oleh TPR Roshan merujuk pada Rangsangan Baru berkenaan kes hari ini. Jawapan-jawapan saya adalah berkenaan dengan projek Rangsangan Baru. Keterangan-keterangan adalah bermula dari saya dapat tawaran sehingga kerja selesai dan rujuk pada pernyataan-pernyataan dan merujuk pada wang komisyen. **B**
>
> *Ya, saya setuju bahawa pernyataan-pernyataan yang diberi pada BPR adalah bercanggah dengan apa yang diberikan di Mahkamah.*
>
> (p 82 of appeal record)

C

[31] At the end of the day, the tenor of his defence was inconsistent and not even plausible. The trial judge hence did not err when she found the accused guilty and convicted of the offence.

SENTENCE **D**

[32] Any person found guilty and convicted of an offence under s 19(2) shall be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both. **E**

[33] I was of the view that the sentence meted out by the trial judge was not manifestly excessive. It was in fact appropriate by its deterrent effect to deter and discourage effectively witnesses from reneging on what they have earlier stated in the course of investigations by the relevant agency and in this case, the **F** anti-corruption agency then known as. Going back on their previous statements at the trial proper will debunk and derail in the blink of an eye the prosecution of the offence against an accused, hence aborting the course of justice, whatever the eventual outcome. This will lead to futile prosecution that is curtailed by renegade witnesses and much public fund is wasted **G** consequently. In such circumstances, public interest is adversely affected when the great effort and time in investigating and bringing offenders to book comes to nought.

[34] On this note, the appeal was dismissed with an affirmation of the **H** conviction and sentence.

Appeal dismissed.

Reported by Mashrifah Ravendran **I**